

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STEVEN GUTIERREZ JUAREZ,

Petitioner,

v.

No. 24-cv-0155-KG-JFR

METROPOLITAN DETENTION CENTER,

Respondent.

ORDER OF DISMISSAL


This matter is before the Court following Petitioner Steven Gutierrez Juarez's failure to cure deficiencies as directed. Petitioner was incarcerated when this case was filed and is proceeding *pro se*. His Habeas Petition Under 28 U.S.C. § 2241 challenges his pretrial detention at the Metropolitan Detention Center (MDC) in Albuquerque, New Mexico. (Doc. 2) (Petition). After the Petition was filed, MDC released Petitioner from custody. (Doc. 4). Petitioner did not notify the Clerk of his new address as required by D.N.M. Local Civil Rule 83.6. By an Order entered July 15, 2024, the Court directed Petitioner to cure this deficiency within thirty (30) days. (Doc. 5). The Order warns that the failure to timely comply may result in dismissal of this case without further notice. *Id.* at 1.

The deadline to provide an updated address was August 14, 2024. Petitioner did not comply or otherwise respond to the Order, which was also returned as undeliverable. (Doc. 6). Hence, the Court will dismiss the Petition without prejudice pursuant to Fed. R. Civ. P. 41(b). *See Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003) ("Rule 41(b) ... has long been interpreted to permit courts to dismiss actions *sua sponte* for a [petitioner's] failure to prosecute or comply

with the ... court's orders.”). The Court will also deny Petitioner's Motion to Proceed *In Forma Pauperis*, which is now moot. (Doc. 3). Finally, the Court will deny a certificate of appealability (COA) under Habeas Rule 11, as the failure to prosecute this case is not reasonably debatable. *See DeAtley v. Williams*, 782 Fed. App'x 736, 737 (10th Cir. 2019) (declining to issue a COA after district court dismissed a habeas filing under Rule 41).

IT IS ORDERED:

1. Petitioner Steven Gutierrez Juarez's Habeas Petition Under 28 U.S.C. § 2241 (Doc. 2) is dismissed without prejudice.
2. Petitioner's Motion to Proceed *In Forma Pauperis* (Doc. 3) is denied as moot.
3. A certificate of appealability is denied.
4. The court will enter a separate judgment closing the civil habeas case.


UNITED STATES DISTRICT JUDGE